

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 365**

March 28, 2011

**SUMMARY OF BILL:** Requires the Department of Human Services (DHS) to implement a program of substance abuse testing for adults as a condition for public assistance eligibility. Prohibits an adult from receiving benefits if such adult refuses to participate in the substance abuse screening program or if he or she tests positive for the presence of a controlled substance. Requires the testing to occur as an initial condition prior to receiving any benefits and then once for every subsequent year the adult person receives assistance. Prohibits test results from being admissible in any criminal proceeding without the consent of the person tested.

**ESTIMATED FISCAL IMPACT:**

**Other Fiscal impact – DHS states that federal regulations prohibit programs that provide public assistance benefits from using suspicionless substance abuse testing as a condition of eligibility. As a result, there will not be an impact on expenditures of state or federal funds.**

Assumptions:

- The Bureau of TennCare will not incur any fiscal impact as the proposed legislation applies only to eligibility for Temporary Assistance for Needy Families (TANF) and not to TennCare enrollees.
- Suspicionless drug testing of applicants for public assistance benefits has been held to be an unconstitutional search and seizure under the Fourth Amendment of the United States Constitution.
- According to DHS, the TANF program would also be excluded from the provisions of the proposed legislation due to the prohibition of federal law. According to the Department, a 2003 Federal Court of Appeals decision enjoined Michigan from conducting suspicionless drug testing. Implementing suspicionless drug testing on TANF recipients would place \$213,000,000 of federal TANF funding at risk.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

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